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- and -

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Counsel to the Debtors and Debtors  
in Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

- - - - -X  
In re: : Chapter 11  
:   
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)  
et al., :   
: Jointly Administered  
Debtors. :   
: Obj. Deadline: 3/10/10 at 5:00 p.m.  
: (Eastern)  
- - - - -X

**NOTICE OF PROPOSED SETTLEMENT WITH CANON U.S.A., INC.**

PLEASE TAKE NOTICE that, on August 10, 2009, the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court") entered the Order Pursuant To 11 U.S.C. §§ 105 and 363, and Fed. R. Bankr. P. 2002, 9006, and 9019 Authorizing the Establishment of Procedures to Settle Certain Pre-Petition and Post-Petition Claims and Causes of Action Without Further Court Approval (D.I. 4401, the "Order").<sup>1</sup> A copy of the Order (without exhibits) is annexed as Exhibit 1.

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Order.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, the above-captioned debtors and debtors in possession (collectively, the "Debtors")<sup>2</sup> are authorized to negotiate and enter into stipulation and settlement agreements with third parties, subject to the procedures set forth in the Order and outlined herein.

PLEASE TAKE FURTHER NOTICE that, at this time, the Debtors have entered into a settlement agreement and stipulation (the "Settlement") with Canon U.S.A., Inc. ("Canon"), a copy of which is annexed as Exhibit 2.

### **SUMMARY OF SETTLEMENT TERMS<sup>3</sup>**

PLEASE TAKE FURTHER NOTICE that, in accordance with paragraph 10(b) of the Order, the material terms of the Settlement are as follows:

(i) The Proposed Settlement is a Tier II Settlement.

(ii) The Settlement is between the Debtors and Canon, U.S.A., Inc.

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<sup>2</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), PRAHS, Inc. (n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for Circuit City Stores West Coast, Inc. is 9250 Sheridan Boulevard, Westminster, Colorado 80031. For all other Debtors, the address was 9950 Mayland Drive, Richmond, Virginia 23233 and currently is 4951 Lake Brook Drive, Glen Allen, VA 23060.

<sup>3</sup> This section of the notice constitutes a summary of the material terms of the Settlement and is being provided for convenience only and should not be relied upon in any way. All parties are strongly encouraged to review the Settlement in its entirety. In the event there is a conflict between the notice and the Settlement, the Settlement shall control in all respects.

(iii) Canon and the Debtors maintained a complex relationship in which the Debtors purchased products and services from Canon which were offered in the Debtors' stores and on their websites and wherein either Canon or the Debtors could be liable to the other party based on, arising out of or related to, sales of goods, the provision of services, invoices, billbacks, chargebacks, returns, pricing deductions, advertising allowances, rebates, shortage deductions, vendor performance charges, overpayments and pre-payments (singularly and/or collectively, in whole or in any part, the "Business"). Canon and the Debtors engaged in such Business both prior to and after the Petition Date.

(iv) A dispute arose among the Debtors and Canon with regard to the proper amount of pre- and post-petition monies due and owing from Canon to the Debtors, and from the Debtors to Canon, on account of the Business (the "Dispute"). The Debtors allege that the proper amount due and owing from Canon to the Debtors on account of the Business is approximately \$14,300,000. Canon disagrees with the Debtors' analysis and alleges that the proper amount due and owing from Canon to the Debtors on account of the Business is significantly less.

(v) Canon alleges that the proper amount due and owing from the Debtors to Canon on account of the Business, by way of recoupment or otherwise, is not less than \$1,200,000. The Debtors disagree with Canon's analysis and allege that there are no amounts properly due and owing from the Debtors to Canon on account of the Business, by way of recoupment or otherwise.

- (vi) Based on a preliminary analysis, the Debtors believe that Canon may have received transfers from the Debtors which may be avoidable under chapter 5 of the Bankruptcy Code (the "Alleged Avoidance Actions"). Canon asserts that it has not received any transfers that may be avoidable or recoverable under chapter 5 of the Bankruptcy Code.
- (vii) Pursuant to the Settlement, and in order to avoid the expense, delay and risk of litigation, the Debtors agree to accept, and Canon agrees to pay, the sum of \$13,000,000 (the "Settlement Payment") in full and final compromise and settlement of the Debtors' claims against Canon on account of, arising from, or relating to the Business, any actual or potential claims similar in nature or type to any of the Disputes, and the Alleged Avoidance Actions.
- (viii) Upon the Debtors' receipt of the Settlement Payment, Canon, on behalf of itself and its successors and assigns, and the Debtors, on behalf of themselves, and each on behalf of their respective estates, successors, and assigns, hereby irrevocably and fully release one another from and against any and all claims or causes of action (including but not limited to, causes of action under Bankruptcy Code sections 542, 543, 544, 546, 547, 548, 549, 550, 553 and 558) arising from, in connection with, or relating to the Business, the Alleged Avoidance Actions, and any agreement by or between the Parties.

**TIME AND PLACE FOR FILING OBJECTIONS OR REQUESTING ADDITIONAL INFORMATION OR TIME TO CONSIDER THE SETTLEMENT**

PLEASE TAKE FURTHER NOTICE that, in accordance with paragraph 10(c) of the Order, any Notice Party may object (each an "Objection") to or request additional time or information (each a "Request") to evaluate the Settlement.

PLEASE TAKE FURTHER NOTICE that all Objections and Requests must be in writing and received by counsel to the Debtors and counsel to the Official Committee of Unsecured Creditors (see information below) by no later than **March 10, 2010 at 5:00 p.m. (Eastern)** (the "Objection Deadline"). Each Objection or Request must be served on (i) the attorneys for the Debtors, (a) Skadden, Arps, Slate, Meagher & Flom, LLP, One Rodney Square, P.O. Box 636, Wilmington, DE 19899, Attn: Gregg M. Galardi ([gregg.galardi@skadden.com](mailto:gregg.galardi@skadden.com)) and Ian S. Fredericks ([ian.fredericks@skadden.com](mailto:ian.fredericks@skadden.com)) and (b) McGuireWoods LLP, One James Center, 901 E. Cary Street, Richmond, VA 23219, Attn: Douglas M. Foley ([dfoley@mcguirewoods.com](mailto:dfoley@mcguirewoods.com)) and Daniel F. Blanks ([dblank@mcguirewoods.com](mailto:dblank@mcguirewoods.com)), and (ii)(a) Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Blvd., 11th Floor, Los Angeles, California 90067-4100, Attn: Jeff Pomerantz ([jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com)) and (b) 780 Third Avenue, 36th Floor, New York, NY 10017-2024, Attn: Robert Feinstein ([rfeinstein@pszjlaw.com](mailto:rfeinstein@pszjlaw.com)).

PLEASE TAKE FURTHER NOTICE that if you object to the Settlement and you do not want the Debtors to proceed with Settlement or you want the Court to consider your views concerning such Settlement, you or your attorney must also:

file in writing with the Court, Clerk of Court, United States Bankruptcy Court, 701 East Broad Street, Suite 4000, Richmond, Virginia 23219, or electronically ([www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov)), a written Objection pursuant to Local Bankruptcy Rule 9013-1(H). If you mail your Objection to the Court for filing, you must mail it early enough so the Court will **receive it on or before March 10, 2010 at 5:00 p.m. (Eastern)**.

Any Objection to a Settlement must be submitted by the method described in the foregoing sentence. Objections will be deemed filed only when actually received at the address listed above.

PLEASE TAKE FURTHER NOTICE that, pursuant to paragraph 10(d) of the Order, if a Notice Party submits a Request, only such Notice Party shall have the later of (i)

an additional five (5) days to object to the Settlement or (ii) in the case of a Request for additional information, three (3) days after receipt by the Notice Party of the additional information requested. Each Notice Party may only make one Request for additional time per Settlement Agreement, unless otherwise agreed to by the Debtors in their sole discretion.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PLEASE TAKE FURTHER NOTICE that, pursuant to paragraph 10(c) of the Order, if no Objection or Request is filed and served upon counsel for the Debtors and counsel for the Committee of Unsecured Creditors or counsel to the Debtors and counsel for the Committee of Unsecured Creditors do not receive a Request prior to the expiration of the Objection Deadline (as may be extended by Requests, if any), the **Debtors shall be authorized to enter into and consummate the Settlement without further order of the Court or any other action by the Debtors.**

Dated: February 24, 2010  
Richmond, Virginia

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& FLOM LLP  
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0636 (302) 651-3000

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- and -

MCGUIREWOODS LLP

/s/ Douglas M. Foley  
Dion W. Hayes (VSB No. 34304)  
Douglas M. Foley (VSB  
No. 34364)  
One James Center  
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Richmond, Virginia 23219  
(804) 775-1000

Counsel for Debtors and Debtors  
in Possession

**EXHIBIT 1**

**(Order w/out Exhibit(s))**



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Counsel to the Debtors and  
Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

- - - - - x  
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In re: : Chapter 11  
:  
CIRCUIT CITY STORES, INC., : 1Case No. 08-35653 (KRH)  
et al., :  
:  
Debtors. : Jointly Administered  
- - - - - x

**ORDER UNDER 11 U.S.C. §§ 105 AND 363, AND FED. R. BANKR.  
P. 2002, 9006, AND 9019 AUTHORIZING THE ESTABLISHMENT OF  
PROCEDURES TO SETTLE CERTAIN PRE-PETITION AND POST-  
PETITION CLAIMS AND CAUSES OF ACTION WITHOUT FURTHER COURT  
APPROVAL**

Upon the motion (the "Motion")<sup>1</sup> of the Debtors  
for entry of an order, pursuant to sections 105 and 363

<sup>1</sup> Each capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Motion.



of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 9006 and 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of an order authorizing the establishment of procedures to settle certain pre-petition and post-petition claims and causes of action without further court approval; and the Court having reviewed the Motion; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby:

**FOUND, DETERMINED, AND CONCLUDED that:**

1. Based on the affidavits of service filed, due, proper and adequate notice of the Motion has been given in accordance with the Case Management Order and that no other or further notice is necessary;
2. The Notice Procedures are fair, reasonable, and appropriate.
3. The Settlement Procedures are fair reasonable, and appropriate.
4. The Notice and Settlement Procedures were proposed in good faith.

5. Pursuant to Bankruptcy Rule 9006, cause exists to shorten the applicable notice period in Bankruptcy Rule 2002(a)(3) with respect to each Settlement.

6. Upon the expiration of the applicable Notice Period without an objection or upon resolution of any filed objection after the applicable Notice Period, each Settlement that complies with the Notice and Settlement Procedures shall be deemed (i) fair and reasonable and (ii) to have satisfied the standards under Bankruptcy Code sections 105 and 363 and Bankruptcy Rule 9019.

7. The relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest.

**ORDERED, ADJUDGED, AND DECREED that:**

8. The Motion is GRANTED.

9. The Debtors are authorized, but not directed, to compromise and settle Disputed Claims and Cause of Action and Receivable Claims in accordance with the Settlement Procedures.

10. The Debtors shall provide key parties in interest with notice of each proposed Settlement. The Notice Procedures are as follows:

(a) The Debtors shall give written notice, by email or facsimile, if available, or overnight courier if email or facsimile are not available, of each proposed Settlement (the "Settlement Notice") to (i) the United States Trustee, (ii) counsel for the Committee of Unsecured Creditors, (iii) any party to the Settlement, and (iv) the Core Group and 2002 List (collectively, the "Notice Parties").

(b) The Settlement Notice (or the Settlement Agreement) shall specify (i) the identity of the other party to the Settlement, (ii) a summary of the dispute with such other party, including a statement of the Debtors' reasonable estimate of the Settlement Claim amount and the basis for the controversy, (iii) an explanation of why the Settlement of such Settlement Claim is favorable to the Debtors, their estates, and their creditors, and (iv) a copy of the proposed settlement agreement ("Settlement Agreement").

(c) The Notice Parties may object to or request additional time to evaluate the proposed Settlement in writing by no later than 5:00 p.m. (ET) (i) five (5) days for both Tier I Disputed Claims and Tier I Cause of Action and Receivable Claims or (ii) ten (10) days for both Tier II Disputed Claims and Tier II Cause of Action and Receivable Claims (each an individual "Notice Period") and serve such objection or request on counsel to the Debtors and counsel for the Creditors' Committee on or before the

expiration of the applicable Notice. If the Debtors are compromising more than one Disputed Claim and/or Cause of Action and Receivable Claim, the Tier II Notice Period shall apply to such Settlement. If no objection or written request is filed and served upon counsel for the Debtors and counsel for the Creditors' Committee or counsel to the Debtors does not receive a written request for additional information and/or additional time prior to the expiration of the applicable Notice Period, the Debtors shall be authorized to enter into and consummate the Settlement Agreement without further order of the Court or any other action by the Debtors.

(d) If a Notice Party provides a written request to counsel for the Debtors for additional information or time to evaluate the proposed Settlement, only such Notice Party shall have the later of (i) an additional five (5) days to object to the proposed Settlement or (ii) in the case of a request for additional information, three days after receipt by the Notice Party of the additional information requested. Each Notice Party may only make one request for additional time per Settlement Agreement, unless otherwise agreed to by the Debtors in their sole discretion.

(e) If a Notice Party objects to the proposed Settlement within the defined Notice Period for that particular Tier of Disputed Claim or Cause of Action and Receivable Claim, (or the additional period in the case of a Notice Party that has timely requested additional time or information to evaluate the proposed Settlement) (the "Objection Deadline") and the Debtors and such objecting Notice Party are unable to reach a consensual resolution,

the Debtors will not take any further action to consummate the proposed settlement without first obtaining Court approval for that specific Settlement. The Debtors are authorized to schedule the Settlement for a hearing at the next scheduled omnibus hearing following the Objection Deadline (or any subsequent hearing) without filing a separate motion or other pleading.

(f) If the Objection Deadline has passed and no objection has been filed with the Court or request for additional time or information has been received by the Debtors, the Debtors are authorized, but not directed, to file a "Certificate of No Objection" with the Court; provided, further, that each such Certificate shall set forth a statement that no objection was filed or received (or if any objection was filed or received, such objection has been resolved) and no request for additional time or information was received or, if such request was received, the additional period of review has expired.

(g) An objection will be considered properly filed and served only if it is filed with the Court, and actually received by the following parties on or before the Objection Deadline: (i) Clerk of the Bankruptcy Court, United States Bankruptcy Court, 701 East Broad Street - Room 4000, Richmond, VA 23219, (ii) the attorneys for the Debtors, (a) Skadden, Arps, Slate, Meagher & Flom, LLP, One Rodney Square, P.O. Box 636, Wilmington, DE 19899, Attn: Gregg M. Galardi ([gregg.galardi@skadden.com](mailto:gregg.galardi@skadden.com)) and Ian S. Fredericks ([ian.fredericks@skadden.com](mailto:ian.fredericks@skadden.com)) and (b) McGuireWoods LLP, One James Center, 901 E. Cary Street, Richmond, VA 23219, Attn: Douglas M. Foley ([dfoley@mcguirewoods.com](mailto:dfoley@mcguirewoods.com))

and Daniel F. Blanks  
([dblanks@mcguirewoods.com](mailto:dblanks@mcguirewoods.com)), and (iii) (a)  
Pachulski Stang Ziehl & Jones LLP, 10100  
Santa Monica Blvd., 11th Floor, Los Angeles,  
California 90067-4100, Attn: Jeff Pomerantz  
([jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com)) and (b) 780 Third  
Avenue, 36th Floor, New York, NY 10017-2024,  
Attn: Robert Feinstein  
([rfeinstein@pszjlaw.com](mailto:rfeinstein@pszjlaw.com)).

(h) All time periods set forth in the  
Notice Procedures shall be calculated in  
accordance with Bankruptcy Rule 9006.

11. Subject to the Notice Procedures, the  
Debtors are authorized to compromise and settle Disputed  
Claims as follows:

(a) Tier I With respect to Disputed  
Claims, the Debtors, in their sole  
discretion, may negotiate, execute and  
consummate written Settlement Agreements  
with the Claimants that will be binding on  
the Debtors and their estates without  
further action by this Court. The Debtors  
may, in full settlement of such Disputed  
Claims, grant any Claimant an allowed claim  
of an agreed upon priority or administrative  
expense claim, as applicable, in an amount  
not to exceed \$500,000.

(b) Tier II With respect to Disputed  
Claims, the Debtors, in their sole  
discretion, may negotiate, execute and  
consummate written Settlement Agreements  
with the Claimants that will be binding on  
the Debtors and their estates without  
further action by this Court. The Debtors  
may, in full settlement of such Disputed  
Claims, grant any Claimant an allowed claim  
(priority or non-priority, as the case may

be) or administrative expense claim, as applicable, in an amount greater than \$500,000.

12. Subject to the Notice Procedures, the Debtors are authorized to compromise and settle Cause of Action and Receivable Claims as follows:

(a) Tier I With respect to pre- and post-petition Cause of Action and Receivable Claims, the Debtors, in their sole discretion, may negotiate, execute and consummate written Settlement Agreements with third parties that will be binding on the Debtors and their estates without further action by this Court. The Debtors may, in full settlement of such Cause of Action and Receivable Claims, compromise or settle a Cause of Action and Receivable Claim resulting in a cash payment to the Debtors' estates of a value (i) equal to or greater than seventy-five percent (75%) of the Debtors' original reasonable estimate of the Cause of Action and Receivable Claim amount and (ii) equal to or less than \$1,000,000.

(b) Tier II With respect to pre- and post-petition Cause of Action and Receivable Claims, the Debtors, in their sole discretion, may negotiate, execute and consummate written Settlement Agreements with third parties that will be binding on the Debtors and their estates without further action by this Court. The Debtors may, in full settlement of such Cause of Action and Receivable Claims, compromise or settle a Cause of Action and Receivable Claim resulting in a cash payment to the Debtors' estates of a value equal to (i) more than \$1,000,000 or (ii) less than



seventy-five percent (75%) of the Debtors' original reasonable estimate of the Cause of Action and Receivable Claim amount.

13. To memorialize the Settlements, the Debtors are authorized in their sole discretion, but not directed, to enter into Settlement Agreements substantially in the form of Exhibit A attached hereto; provided, further, that the material terms of each Settlement Agreement may vary depending upon the specific facts and circumstances of each Settlement and nothing herein or therein shall be construed as impairing the Debtors' ability to tailor the form of the Settlement Agreement to each specific Settlement.

14. The Debtors are authorized, but not directed, to resolve all of the Disputed Claims and Cause of Action and Receivable Claims of a single party in a single Settlement Agreement.

15. The Debtors shall provide written notice to Kurtzman Carson Consultants LLC ("KCC"), the Debtors' authorized claims and noticing agent, with respect to any proof of claim settled pursuant to these Settlement Procedures; provided, further, that, if applicable, KCC

is authorized and directed to amend the claims register accordingly without further order of the Court.

16. Following entry of this Order, unless otherwise agreed to between the Debtors and the Creditors' Committee, the Debtors' advisors shall provide weekly updates concerning ongoing settlement discussions to the Creditors' Committee's advisors. These updates shall include, without limitation, non-privileged information mutually agreed to among the parties' advisors. Once the Debtors reach an agreement in principle with a third party, the Debtors shall share the material terms of the Settlement with the Creditors' Committee's advisors. All information shared with the Creditors' Committee's advisors shall be deemed shared subject to the existing confidentiality agreement with the Debtors.

17. Assuming no objection has been filed by the applicable Objection Deadline, immediately after the expiration of the Notice Period (or, in the case of a filed objection that has been resolved, upon filing of a Certificate of No Objection) the Settlement Agreement

shall be deemed to be a final order of this Court for all purposes, including for purposes of any appeal.

18. In the event there is an inconsistency between the Motion and this Order, this Order shall control.

19. The requirement under Local Rule 9013-1(G) of the Local Rules for the United States Bankruptcy Court for the Eastern District of Virginia to file a memorandum of law in connection with the Motion is hereby waived.

20. This Court retains jurisdiction to hear and determine all matters arising from or related to the Motion, this Order or any Settlement.

Dated: Richmond, Virginia  
Aug 7 2009, 2009

/s/ Kevin R. Huennekens  
UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

Entered on docket: August 10 2009

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Ian S. Fredericks, Esq.  
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- and -

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- and -

/s/ Douglas M. Foley  
Dion W. Hayes (VSB No. 34304)  
Douglas M. Foley (VSB No. 34364)  
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901 E. Cary Street  
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(804) 775-1000

Counsel to the Debtors  
and Debtors in Possession

**CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I  
hereby certify that the foregoing proposed order has  
been endorsed by or served upon all necessary parties.

/s/ Douglas M. Foley  
Douglas M. Foley

**EXHIBIT 2**

**(Settlement)**

Gregg M. Galardi, Esq.  
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Counsel to the Debtors and  
Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

- - - - - x  
In re: : Chapter 11  
:  
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)  
et al., :  
:  
Debtors. : Jointly Administered  
- - - - - x

**SETTLEMENT AGREEMENT, STIPULATION AND ORDER BY AND AMONG  
THE DEBTORS AND CANON U.S.A., INC.**

This settlement agreement, stipulation and order  
(the "Settlement Agreement") is entered into by and  
among the above-captioned debtors and debtors in

possession (the "Debtors"), on the one hand, and Canon U.S.A., Inc. ("Canon" and together with the Debtors, the "Parties" and each of which is a "Party"), on the other hand.

#### **GENERAL BACKGROUND**

WHEREAS, on November 10, 2008 (the "Petition Date"), the Debtors each filed a voluntary petition in the United States Bankruptcy Court for the Eastern District of Virginia (the "Court") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"); and

WHEREAS, the Debtors have continued as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code; and

WHEREAS, on November 12, 2008, the Office of the United States Trustee for the Eastern District of Virginia appointed a statutory committee of unsecured creditors (the "Creditors' Committee"); and

WHEREAS, to date, no trustee or examiner has been appointed in these chapter 11 cases; and

WHEREAS, on January 16, 2009, the Court authorized the Debtors, among other things, to conduct



going out of business sales at the Debtors' remaining 567 stores pursuant to an agency agreement (the "Agency Agreement") between the Debtors and a joint venture, as agent (the "Agent"). On January 17, 2009, the Agent commenced going out of business sales pursuant to the Agency Agreement at the Debtors remaining stores. The going out of business sales concluded on or about March 8, 2009; and

WHEREAS, the Debtors are authorized under the Court's Order under 11 U.S.C. §§ 105 and 363, and Fed. R. Bankr. P. 2002, 9006, and 9019 Authorizing the Establishment of Procedures to Settle Certain Pre-Petition and Post-Petition Claims and Causes of Action Without Further Court Approval, dated August 7, 2009 (D.I. 4401)(the "Settlement Procedures Order"),<sup>1</sup> to enter into this Settlement Agreement, subject to the Notice Procedures; and

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<sup>1</sup> All capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Settlement Procedures Order.

**SETTLEMENT BACKGROUND**

WHEREAS, for several years preceding commencement of these Chapter 11 cases, the Debtors purchased products and services from Canon for resale in their stores and on their websites; and

WHEREAS, the Parties maintained a complex relationship in which the Debtors purchased products and services from Canon which were offered in the Debtors' stores and on their websites and wherein either Canon or the Debtors could be liable to the other Party based on, arising out of or related to, sales of goods, the provision of services, invoices, billbacks, chargebacks, returns, pricing deductions, advertising allowances, rebates, shortage deductions, vendor performance charges, overpayments and pre-payments (singularly and/or collectively, in whole or in any part, the "Business"); and

WHEREAS, Canon and the Debtors engaged in such Business both prior to and after the Petition Date; and

WHEREAS, as further described herein, disputes (the "Disputes") arose among the Parties with regard to the proper amount of pre- and post-petition monies due

and owing from Canon to the Debtors, and from the Debtors to Canon, on account of various matters pertaining to the Business; and

WHEREAS, the Debtors allege that the proper amount due and owing from Canon to the Debtors on account of reconciled and unreconciled records relating to the Business is approximately \$14,300,000; and

WHEREAS, Canon disagrees with the Debtors' analysis and alleges that the proper amount due and owing from Canon to the Debtors on account of reconciled and unreconciled records relating to the Business is significantly lower than \$14,300,000; and

WHEREAS, Canon further alleges that the proper amount due and owing from the Debtors to Canon on account of the Business, by way of recoupment or otherwise, is not less than \$1,200,000; and

WHEREAS, the Debtors disagree with Canon's analysis and allege that there are no amounts properly due and owing from the Debtors to Canon on account of the Business, by way of recoupment or otherwise; and

WHEREAS, the Parties, over an extended period of time, have engaged in extensive discussions related

to calculating the amount each side owes the other in connection with the Business; and

WHEREAS, based on their preliminary analysis, the Debtors believe that Canon may have received certain transfers from the Debtors which may be avoidable under chapter 5 of the Bankruptcy Code, subject to proof (the "Alleged Avoidance Actions"); and

WHEREAS, Canon asserts that it has not received any transfers that may be avoidable or recoverable under chapter 5 of the Bankruptcy Code; and

WHEREAS, the Debtors are willing to waive any Alleged Avoidance Actions in order to induce Canon to enter into this Settlement Agreement;

NOW, THEREFORE, subject to and in accordance with the Settlement Procedures Order, in consideration for the recitals above, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties, by their respective undersigned counsel, hereby **STIPULATE AND AGREE AND IT IS HEREBY ORDERED** that:

1. This Settlement Agreement is subject to approval by the Court. If the Court does not approve

this Settlement Agreement, this Settlement Agreement shall be null and void and shall not be referred to or used for any purpose by any of the Parties.

2. The terms and conditions of this Settlement Agreement shall become effective and enforceable on the date this Settlement Agreement, having been approved and "so ordered" by the Court, becomes a Final Order, as defined below (the "Effective Date"). "Final Order" shall mean an order of the Court which is not subject to any stay of its effectiveness and (i) as to which the time to appeal or petition for certiorari has expired and as to which no timely appeal, or petition for certiorari shall then be pending; or (ii) if a timely appeal or writ of certiorari thereof has been sought, the order shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied or reargument or rehearing on remand shall have been denied or resulted in no modification of such order, and the time to take any further appeal or petition for certiorari shall have expired.

3. The Parties represent that they have engaged in arms' length negotiations to arrive at this Settlement Agreement. As a result of such negotiations, the Debtors agree to accept, and Canon agrees to pay, the sum of \$13,000,000 (the "Settlement Payment") in full and final compromise and settlement of the Debtors' claims against Canon on account of, arising from, or relating to the Business, any actual or potential claims similar in nature or type to any of the Disputes, and the Alleged Avoidance Actions, pursuant to the terms of this Settlement Agreement.

4. Canon shall make the Settlement Payment by wire transfer, within five (5) business days after the Debtor notifies Canon of the occurrence of the Effective Date, in accordance with wire instructions to be provided by the Debtors. All notices to Canon should be in writing sent c/o Michael Lane, Director and Assistant General Manager, Canon U.S.A., Inc., One Canon Plaza, Lake Success, New York 11042, with a copy to Canon's undersigned counsel.

5. Upon the Debtors' receipt of the Settlement Payment, Canon, on behalf of itself and its

successors and assigns, and the Debtors, on behalf of themselves, and each on behalf of their respective estates, successors, and assigns, hereby irrevocably and fully release one another from and against any and all claims or causes of action (including but not limited to, causes of action under Bankruptcy Code sections 542, 543, 544, 546, 547, 548, 549, 550, 553 and 558) arising from, in connection with, or relating to the Business, the Alleged Avoidance Actions, and any agreement by or between the Parties (this paragraph, the "Releases").

6. For the avoidance of doubt and notwithstanding anything to the contrary in this Settlement Agreement, (1) the Releases are not intended as general releases or waivers and nothing in this Settlement Agreement shall be construed as such, and (2) Canon and the Debtors specifically acknowledge and agree that this Settlement Agreement is not intended to, and does not, release or otherwise affect in any way any actual claims or causes of action (or potential claims or causes of action similar in nature or type to such actual claims or causes of action) now or hereinafter asserted in, based on, or relating to the multi-district

litigation captioned *In re: TFT-LCD (Flat Panel) Antitrust Litigation*, MDL No. 1827 (N.D. Cal.) and the actions consolidated therein (the "MDL Proceeding").

7. The Debtors represent and warrant that none of the claims settled or released under this Settlement Agreement has been assigned to any other party, person, or entity.

8. This Settlement Agreement memorializes a settlement of disputed claims, and is not in any way to be construed as an admission of liability by any party.

9. Neither this Settlement Agreement, nor any statement made or action taken in connection with the negotiation of this Settlement Agreement, shall be offered or received in evidence or in any way referred to in any legal action or administrative proceeding among or between the Parties hereto, other than as may be necessary (a) to obtain approval of and/or to enforce any of the terms of this Settlement Agreement or (b) to seek damages or injunctive relief in connection therewith.

10. Each of the Parties hereto shall execute and deliver, or cause to be executed and delivered, such



documents and to do, or cause to be done, such other acts and things as might reasonably be requested by any party to this Settlement Agreement to assure that the benefits of this Settlement Agreement are realized by the Parties.

11. No provision of this Settlement Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any person other than the Parties hereto and their respective successors, executors, administrators and assigns as set forth herein.

12. This Settlement Agreement will be binding upon and inure to the benefit of the Parties and their respective successors, predecessors, estates, assigns, officers, directors, members, shareholders, employees, and agents, including (i) any trustee appointed under section 1104, 701, 702 or 703 of the Bankruptcy Code and (ii) any party proceeding on behalf of any of the Debtors' estates.

13. This Settlement Agreement shall be governed by and construed in accordance with the

internal laws of the State of Virginia without regard to any choice of law provisions.

14. This Settlement Agreement may be signed in counterpart originals and delivered by facsimile or email, which, when fully executed, shall constitute a single original.

15. This Settlement Agreement constitutes the entire agreement and understanding of the Parties regarding the Settlement Agreement and the subject matter thereof and supersedes all prior discussions, negotiations and understandings between the Parties regarding such subject matter.

16. The Parties each hereby acknowledge that, in executing this Settlement Agreement, they have not relied on any representation, warranty, promise, statement, covenant or agreement, express or implied, direct or indirect, except as expressly set forth herein.

17. The Court shall retain exclusive jurisdiction (and the Parties consent to such retention of jurisdiction) with respect to any disputes arising from or related to, or other actions to interpret,

administer or enforce the terms and provisions of, this Settlement Agreement.

18. Each person or entity who executes this Settlement Agreement on behalf of another person or entity represents and warrants that he, she, or it is duly authorized to execute and deliver this Settlement Agreement on behalf of such person or entity, has the requisite authority to bind such person or entity, and such person or entity has full knowledge of and has consented to this Settlement Agreement. The representations and warranties set forth in this paragraph shall survive execution of this Settlement Agreement.

19. This Settlement Agreement may not be modified, altered, amended or vacated, and no provision hereof may be waived, without the written consent of all Parties hereto and an order of the Court.

20. If this Settlement Agreement does not become effective and the Effective Date does not occur, then (a) the Settlement Agreement shall be deemed null and void; (b) the Debtors shall not be deemed to have waived any right or to have settled any controversy

between them and Canon that existed before the execution of the Settlement Agreement; (c) Canon shall not be deemed to have waived any right or settled any controversy that existed between it and the Debtors before the execution of the Settlement Agreement; (d) the Parties shall be restored to their respective positions immediately before the execution of the Settlement Agreement; (e) neither this Settlement Agreement nor any exhibit, document, or instrument delivered hereunder, nor any statement, transaction, or proceeding in connection with the negotiation, execution, or implementation of this Settlement Agreement, shall be (i) with prejudice to any person or Party hereto, (ii) deemed to be or construed as an admission by any Party of any act, matter, proposition, or merit or lack of merit of any claim or defense, or (iii) referred to or used in any manner or for any purpose in any subsequent proceeding in this action, or in any other action in any court or in any other proceeding; and (f) all negotiations, proceedings, and statements made in connection with the negotiation of this Settlement Agreement (i) shall be without prejudice to any person

or party herein, (ii) shall not be deemed as or construed to be an admission by any party herein of any act, matter, proposition, or merit or lack of merit of any claim or defense, and (iii) shall not be offered in evidence in this or any other action or proceeding, except in connection with this Settlement Agreement or the enforcement thereof.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, this Settlement Agreement  
is hereby executed as of the later of the dates set forth  
below.

ACCEPTED AND AGREED TO BY:

Dated: February 24, 2010  
Richmond, Virginia

MCGUIREWOODS LLP

/s/ Douglas M. Foley \_\_\_\_\_  
Dion W. Hayes (VSB No. 34304)  
Douglas M. Foley (VSB No.  
34364)  
One James Center  
901 E. Cary Street  
Richmond, Virginia 23219  
(804) 775-1000

and

SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM, LLP  
Gregg M. Galardi, Esq.  
Ian S. Fredericks, Esq.  
P.O. Box 636  
Wilmington, Delaware 19899-0636  
(302) 651-3000

and

SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM, LLP  
Chris L. Dickerson, Esq.  
155 North Wacker Drive  
Chicago, Illinois 60606  
(312) 407-0700

*Counsel for Debtors and Debtors  
in Possession*

Dated: New York, New York  
February 24, 2010

HERRICK, FEINSTEIN LLP

/s/ Paul Rubin  
Paul Rubin, Esq.  
2 Park Avenue  
New York, New York 10016  
(212) 592-1448

*Counsel for Canon U.S.A., Inc.*

Dated: Richmond, Virginia

\_\_\_\_\_, 2010

SO ORDERED

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE